

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: VARTEC TELECOM, INC.	DOCKET NOS. TCU-01-21 WRU-01-47-582
------------------------------------	--

**ORDER GRANTING APPLICATION, APPROVING CONCURRENCE IN MAPS,
AND GRANTING WAIVER**

(Issued December 18, 2001)

On September 27, 2001, VarTec Telecom, Inc. (VarTec), filed an application for issuance of a certificate of public convenience and necessity pursuant to Iowa Code § 476.29 (2001) stating its intention to provide local exchange service to both business and residential customers throughout Iowa. The application has been identified as Docket No. TCU-01-21. VarTec has provided the qualifications of its company officers and financial statements and has stated it will support a 2-PIC methodology for dialing parity.

Iowa Code § 476.29(2) provides that the local exchange carrier shall not be denied a certificate if the Utilities Board (Board) finds that the applicant “possesses the technical, financial, and managerial ability to provide the service it proposes to render and the Board finds the service is consistent with the public interest.”

The Board has reviewed VarTec’s application and finds the necessary technical, financial, and managerial abilities to provide local exchange service has been demonstrated. The Board finds it is in the public interest to approve the application.

VarTec also states that its service area will mirror the service territory of exchanges and service area maps of Qwest Corporation (Qwest) as they are currently filed and as they may be modified in the future. Iowa Code § 476.29(4) requires that each certificate define the service territory in which land-line local telephone service will be provided and authorizes the Board to promulgate rules establishing requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the Board, which show exchange boundaries. The Board finds that VarTec has complied with the statutory and rule requirements by concurring in the exchange maps of Qwest.

VarTec has requested the Board waive the requirements of 199 IAC 16.5(2), 18.2, and 22.3(2). The waiver requests were identified as Docket No. WRU-01-47-582.

VarTec requested a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform system of accounts. VarTec states it will maintain its books in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted, since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange service provider.

VarTec has requested the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in Iowa. The Board will grant the waiver based upon the statement of VarTec that it will make the records available to the Board upon request.

VarTec has also requested the Board waive 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant the waiver based upon the

statement of VarTec that it will arrange for its customers to be included in the directory of the incumbent carrier.

Rule 199 IAC 1.3 states that the Board may grant waivers of its rules, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, the waiver would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver request as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa and would be an undue hardship on VarTec because other competitive carriers have been granted similar waiver requests. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantial equal protection for health, safety, and welfare provided since the action waived will be completed under different circumstances.

VarTec has not filed proposed tariffs for Board approval setting out the prices terms and conditions of providing local exchange service. The Board finds that a certificate should not be issued to VarTec until it has approved tariffs.

The Board notes that VarTec intends to offer “bundled” telecommunication service packages, which include local exchange service, long distance, and call management services. VarTec has stated that it intends to comply with all Board

rules and regulations as they pertain to disconnection of service. Therefore, VarTec's proposed tariff should include a clear statement of the treatment of partial payments and disconnection with respect to its "bundled" services and compliance with Board rules and regulations.

IT IS THEREFORE ORDERED:

1. The application for a certificate of public convenience and necessity filed by VarTec Telecom, Inc., on September 27, 2001, is approved, subject to the requirements that follow.

2. The Board will issue a certificate of public convenience and necessity allowing VarTec Telecom, Inc., to provide facilities-based local exchange service upon approval of tariffs to reflect the prices, terms, and conditions of local exchange service in Iowa. At the time VarTec Telecom, Inc., files proposed tariffs with the Board, it must give notice to all affected local exchange carriers.

3. The concurrence in the maps and boundaries of the exchanges of Qwest Corporation is approved.

4. The waiver of 199 IAC 16.5(2), 18.2, and 22.3(2) is granted as described in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 18th day of December, 2001.